

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

JOSEPH PARSONS,

Plaintiff,

vs.

LOWE’S HOME IMPROVEMENT,

Defendant.

CIVIL ACTION NO. 0:22-cv-04522-MGL-SVH

NOTICE OF REMOVAL

Defendant Lowe’s Home Centers, LLC, incorrectly identified in the Complaint as Lowe’s Home Improvement (“Lowe’s), by counsel, hereby removes Case No. 2022-CP-46-03492 from the Court of Common Pleas, County of York, South Carolina, to the United States District Court for the District of South Carolina, Rock Hill Division, pursuant to §§ 1332, 1441 and 1446 of Title 28 of the United States Code.

1. On November 18, 2022, Plaintiff filed a Complaint in the York County Court of Common Pleas. This Complaint was served on Lowe’s on November 18, 2022, a true and correct copy of which is attached hereto as Exhibit A.

2. The Complaint alleges that Plaintiff was shopping at a Lowe’s store located in York, South Carolina (York County) on November 19, 2022, when a stack of lumber was dropped on his leg. (Compl. ¶ 1).

3. Plaintiff is seeking damages for his alleged injuries. (Compl. ¶ 13).

4. This Notice of Removal is timely, in accordance with 28 U.S.C. §1446(b)(1), because less than thirty (30) days have elapsed since receipt by Defendant Lowe's of the first pleading served on Defendant.

5. Pursuant to 28 U.S.C. §1446(a), a copy of all process, pleadings, and orders served upon Lowe's in said action is attached hereto as Exhibit A.

6. Venue for this removal action is proper pursuant to 28 U.S.C. §1441(a), because the original action was filed in York County, South Carolina, which is within this District and Division, and the alleged incident on which the Plaintiff's claim is based occurred in this Division, at Defendant's store located in York, South Carolina. (*See* Complaint, ¶ 18).

7. This is a civil action in which there is complete diversity of citizenship between Plaintiff and Defendant. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1441 because it could have been filed in this Court under 28 U.S.C. § 1332.

8. Based on the address provided by Plaintiff to the Court, in the Civil Action Cover sheet, and the signature block of the Complaint, the Plaintiff is a citizen of York County, South Carolina, with an address of 2150 Bailes Road, York, South Carolina, 29745. (Civil Action Cover Sheet, and signature block to Compl.).

9. Lowe's Home Centers, LLC is and was at the time of the filing of the Complaint a foreign limited liability company whose sole member is a corporation incorporated in North Carolina with its principal place of business in North Carolina. *See*, Defendant's Answers to Local Rule 26.01 Interrogatories. Accordingly, Lowe's Home Centers, LLC is not a citizen of South Carolina.

10. Plaintiff alleges that he suffered a personal injury for which Plaintiff seeks damages. (Compl. ¶ 13).

11. The amount in controversy exceeds \$75,000.00. (Compl. ¶¶ 2, 6, 7, 11, 13, 15, 16, and 17). Plaintiff's Complaint contains no limitation of damages, and in fact seeks damages for, *inter alia*, permanent injury (Compl. ¶¶ 6, 7, and 17); permanent work disability (Compl. ¶¶ 16); and need for future surgery (Compl. ¶¶ 11).

12. Pursuant to 28 U.S.C. §1446(d), written notice of such filing will be given promptly to the Plaintiff by the undersigned counsel for Defendant, and copies of this Notice will be filed promptly with the Clerk of Court for Common Pleas for York County, South Carolina.

13. This case is being removed subject to and without waiver of any challenges that Defendant Lowe's may have as to any claims or defenses that may be available to it.

WHEREFORE, because this Court has jurisdiction over this action pursuant to 28 U.S.C. §1332, removal of the above-styled case to this Court is appropriate.

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December 15, 2022